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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: AUG 18 2003

IN RE: Applicant: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti who made a material and willful misrepresentation by submitting a fraudulent Haitian passport at the time she sought entry into the United States on April 20, 1990. The applicant was subsequently ordered excluded in 1991. The applicant is the unmarried daughter of a lawful permanent resident and she is the beneficiary of an approved petition for alien relative. The applicant seeks a waiver of the grounds of inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i).

In his decision, the acting district director noted that the applicant submitted a letter dated January 16, 2002 from a physician stating that the applicant's mother was diagnosed with severe idiopathic hypertension and uncontrolled diabetes mellitus in April 1999. The physician further stated that he advised the applicant to supervise her mother's treatment closely to prevent any premature complications. The applicant's attorney submitted a brief stating that the applicant's mother lives with the applicant and that she is dependent upon the applicant for transportation to medical appointments, etc. The acting district director determined that although the applicant presented a compelling argument, she had failed to establish that refusal of admission of the applicant would result in extreme hardship to her lawful permanent resident mother. The waiver application was denied accordingly.

On appeal, counsel for the petitioner asserts that the applicant did in fact prove extreme hardship to her qualifying relative. Counsel further asserts that additional evidence would be submitted within thirty days of the appeal. More than six months have lapsed and no additional evidence has been introduced into the record.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

> (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

> (1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.
>
> (2) No court shall have jurisdiction to review a decision or action of the Attorney General regarding a waiver under paragraph (1).

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 568-69 (BIA 1999), the Board of Immigration Appeals (the BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *See Cervantes-Gonzalez* at 565-566.

In this case, the applicant's qualifying relative is her lawful permanent resident mother. The record indicates that the applicant is the sole child of the qualifying relative.

To support the assertions regarding the applicant's mother's physical condition, counsel submitted one letter from a doctor written in 2002. The evidence on the record indicates that as of September 1998, the applicant's mother had been employed on a full-time basis since 1988. The applicant's claim that her mother is unable to work on a full-time basis and requires her financial and physical support is not supported by the evidence. One physician's letter is insufficient evidence to support the applicant's assertion that her removal would cause extreme hardship to her mother.

In *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the Ninth Circuit Court of Appeals defined "extreme hardship" as hardship that is unusual or beyond that which would normally be expected upon deportation. The court stated further that the common results of deportation are insufficient to prove extreme hardship. In *Matter of Pilch*, Interim Decision 3298, (BIA 1996), the BIA held that emotional hardship caused by severing family and community ties is a common result of deportation. Moreover, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

A review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that her lawful permanent resident mother would suffer extreme hardship over and above the normal economic and social disruptions involved in the removal of a family member. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.